

III. **Remarks**

A. **Rejections Under 35 U.S.C. § 112**

Claims 11–24 stand rejected under the second paragraph of 35 U.S.C. § 112 as being indefinite because claim 11, and all claims (12–24) dependent thereon, for improper recitation of a minimum amount of a component. This rejection is overcome by amending claim 1 to recite that the aqueous foam regulating emulsion that comprises 15% to 60% by weight of a foam regulating active ingredient based on either or both a paraffin wax or silicone oil.

B. **Rejections Under 35 U.S.C. § 103(a)**

Claims 1–4, 6–24 and 26 stand rejected under 35 U.S.C. 103(a) as being obvious over Millhoff et al. (US Patent No. 6,340,662) (hereinafter “Millhoff”). The Examiner noted that the Millhoff reference has a common assignee and inventor with the instant application and that based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e).

Applicants overcome this rejection under 35 U.S.C. § 103(c)(1) with the statement that **the instant application serial number 10/647,165, filed on August 22, 2003 and U.S. patent 6,340,662 were, at the time the invention of the instant application was made, owned by Henkel KGaA, Duesseldorf, Germany.**

Claims 5 and 25 stand rejected under 35 U.S.C. 103(a) as being obvious over Millhoff et al. in view of Hall et al. (U.S. patent 6,093,218). Applicants overcome this rejection by pointing out that since the primary reference Millhoff has been excluded as prior art above, the Hall reference is no longer applicable.

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IV. Conclusion

In view of the amendments and remarks above, Applicants ask for reconsideration and allowance of all pending claims. Should any fees be due for entry and consideration of this Amendment that have not been accounted for, the Commissioner is authorized to charge them to Deposit Account No. 04-1406.

Respectfully submitted,



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